

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

File No. 27-CV-23-9758

City of Long Lake,

CASE TYPE:

Plaintiff,

v.

**DECLARATION OF SARAH D.
GREENING**

City of Orono,

Defendant.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

I, Sarah D. Greening, declare as follows:

1. My name is Sarah Greening and I am an attorney at Larkin Hoffman Daly & Lindgren, Ltd. I am one of the attorneys who represents Plaintiff City of Long Lake. I have personal knowledge of the subject matter contained herein and I am competent to testify to the same.

2. A true and accurate copy of the legal memorandum updating Orono Mayor Dennis Walsh and the Orono City Council on “the status of this litigation and [] preliminary analysis of the legal issues and recommendations moving forward” from Paul Donald Reuvers is attached hereto as **Exhibit A**.

3. A true and accurate copy of the July 18, 2023 email from Long Lake’s counsel to Mr. Reuvers is attached hereto as **Exhibit B**.

4. I have listened to a copy of the video that Mayor Miner received from the Orono resident which captured the Orono Recruitment Open House on September 27, 2023.

5. Around the 8-minute mark of the video, Orono Chief Van Eyll discusses the two resolutions that will be before the Orono City Council on October 9, 2023 for hiring firefighters.

6. At the 32-minute mark of the video, Chief Van Eyll discusses the “text message” that was sent to the seven individuals who have applied from Long Lake. He also states, “so those are the firefighters that are hopefully approved on October 9, 2023.”

7. Around the 39-minute mark, Chief Van Eyll stated, “there won’t be any issue with Orono firefighters who stay with Long Lake for as long as they want to. As long as you can make your minimum on my department, I have no problem with that at all.”

8. At the 1 hour, 11-minute mark of the video, one of the firefighter recruits asked about a scenario in which the employee is on an Orono duty crew, but retains membership with Long Lake Fire Department. The following hypothetical was posed: If, while working on Orono’s duty crew the alarm goes off for Long Lake, is that firefighter able to leave and attend to the Long Lake call? Chief Van Eyll responded “No.”

9. Chief Van Eyll went on to state that under certain circumstances response to Long Lake might be possible, but he makes clear that the Orono duty crew member would need to get permission to leave to attend the Long Lake call.

10. Around the 10-minute mark of the video, Chief Van Eyll discusses Orono’s plan to construct a temporary structure on Fire Station 2’s property to house Orono’s trucks.

11. Around the 10-minute mark of the video, Chief Van Eyll makes it clear that this construction will occur prior to July 1, 2024, when two CAD zones are moved from the territory of the Long Lake Fire Department to the Orono Fire Department.

12. Around the 11-minute mark of the video, Chief Van Eyll goes on to state that the expansion is permitted during the pendency of the lawsuit, “[w]e just cannot interfere with Long Lake's ability to utilize that station or respond out of that station.”

13. Around the 1 hour, 52-minute mark of the video, Chief Van Eyll states that Orono has walked the property with an architect, and the architect “thinks that there would be no problem putting in a couple more bays onto that station on the west side.”

14. Around the 25-minute mark of the video, in discussing the “temporary structure” on or near Fire Station 2, Chief Van Eyll states that “they would end up putting something that we could then modify to connect to Station 2 once we have access to Station 2.”

I declare under penalty of perjury that everything I have stated in this document is true and correct. Executed on October 13, 2023 in Hennepin County, Minnesota.

s/Sarah D. Greening
Sarah D. Greening

EXHIBIT A



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Paul Donald Reuvers
Direct: 952.548.7205
paul@iversonlaw.com

DATE: July 18, 2023
TO: Mayor and City Council
CC: City Staff / City Attorney / LMCIT
FROM: Paul Donald Reuvers
RE: *City of Long Lake v. City of Orono*
Court File No. 27-CV-23-9758

My law firm has been retained through the League of Minnesota Cities Insurance Trust to represent the City of Orono ("Orono") in this litigation. This memorandum will update you on the status of this litigation and provide our preliminary analysis of the legal issues and recommendations moving forward.

The City of Long Lake ("Long Lake") sued Orono, asserting various breach of contract claims. In summary, we do not believe any of the claims have any legal merit, and we view this litigation as more politically motivated. It is our legal opinion there has been no breach of contract and Orono's decision to establish its own fire department has been open and transparent.

Long Lake sought and the district court granted Long Lake's Motion for a Temporary Injunction on July 14, 2023, which essentially maintains the status quo of the relationships between Orono and Long Lake during the pendency of this litigation. Importantly, the court made clear its order was not a decision on the merits of the case, and that will be sorted out in the litigation process. Instead, the court directed the parties to engage in mediation to avoid the cost and expense of litigation between two municipalities. We have agreed to utilize the services of retired Minnesota Supreme Court Chief Justice Kathleen Blatz to act as a mediator. We are coordinating with Long Lake's counsel to set up mediation and hope to do so in the next 30-60 days.

It is also significant the district court did not find Orono violated any of its contractual obligations. Quite frankly, it clearly has not. Orono has repeatedly confirmed it will abide by its contractual obligations, while taking the reasonable steps to construct and establish its own fire department. I want to make clear that despite the litigation and current order from the district court, Orono will be able to continue to hire personnel, acquire equipment, and take the steps necessary to establish its own fire department to serve this community, while vigorously defending this litigation initiated by Long Lake.

July 18, 2023

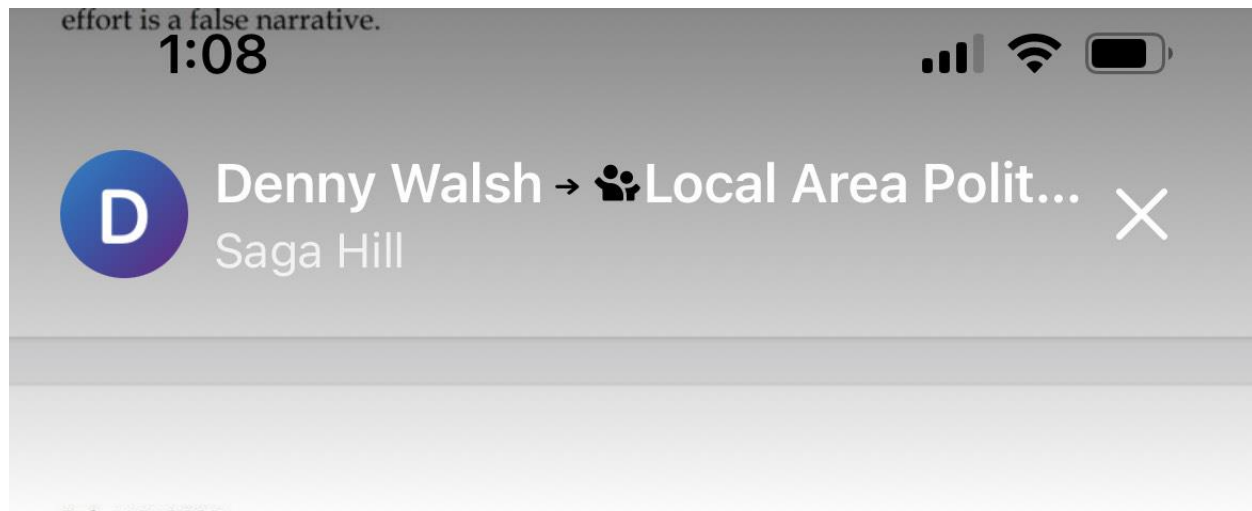
Page 2

Please also keep in mind the court largely accepted Long Lake's arguments for the temporary injunction which, putting it charitably, are inaccurate in many respects. We will have the opportunity to correct the record, if necessary, if this matter does not resolve at mediation. For example, there was nothing illegal concerning Orono's acquisition of a ladder truck. Orono is entitled to assemble the necessary equipment to outfit its fire department (and will continue to be able to do so). Even after acquiring the ladder truck, Orono offered to allow Long Lake to utilize the ladder truck, if it did not want to acquire its own ladder truck. This demonstrates Orono is not attempting to undermine the Long Lake Fire Department ("LLFD"). To the contrary, Orono is on record that it will ensure the LLFD has the equipment necessary to service the needs of the community.

As to hiring Chief Van Eyll, Orono went through an open and public process, no different than any other community or public employer. It should be no surprise the Chief, who was most familiar with the community, was the top choice. The decision to accept the chief position was his own decision to accept as he can choose where he wants to work, just like any other prospective employee. Similarly, the City may choose to hire any LLFD firefighter who applies for a position, but pursuant to the order may not proactively solicit their employment. Finally, the Minnesota Legislature recently passed a law this past session that bans non-compete agreements between employers and employees, so any argument LLFD firefighters cannot choose where they work would be a violation of existing state law.

As to Long Lake's complaints concerning capital budgets, Orono is contractually authorized to reject a proposed budget, and Long Lake is as well. More to the point, there is a process in place if either Orono or Long Lake does not approve a proposed capital budget. It would be financially irresponsible for Orono to approve budgets that are not economically realistic. Taxpayers should expect their elected officials will critically review any proposed budget, and the Court cannot usurp that legislative function. The City Council has made clear it is committed to providing the LLFD the equipment it needs and will continue to review capital purchase proposals on a case-by-case basis.

As to the firefighters' pension programs, there is also no evidence of any wrongdoing on the part of the City. Rather, it is an undisputed fact that representatives from Orono and Long Lake jointly met with legislators in 2023 to see if firefighters from the LLFD could transfer their pension dollars to Orono on an individual basis if they decided to work for the Orono fire department. This was done for the benefit of any firefighters who may choose to make the career switch to keep their years of pension vesting without interruption. In summary, Long Lake's characterization of this legislative effort is a false narrative.



effort is a false narrative.

1:08



Denny Walsh → Local Area Polit...



Saga Hill

July 18, 2023

Page 2

I look forward to discussing this litigation with you further. If this matter does not resolve at mediation, I recommend a vigorous defense against the meritless claims asserted in this litigation. Thank you.

EXHIBIT B

Greening, Sarah D.

From: Yetka, Christopher H.
Sent: Tuesday, July 18, 2023 3:00 PM
To: Paul Reuvers
Cc: Laurents, Erin R.; Greening, Sarah D.
Subject: Long Lake and Orono
Attachments: Reuvers 2023-07-18 Memo to Orono.docx

Paul,

Following our call I have gone back to the Court's Order and also spoken to my client. My read of the Order is that it precludes Orono from hiring any firefighters from Long Lake for the pendency of the contract litigation and contract. I point to the following provisions:

Page 2, Paragraph 3: "The City of Orono is temporarily enjoined from recruiting Long Lake firefighters to begin working for the Orono Fire Department . . . before the end of this litigation."

Page 21: "The Court finds that Orono's goal of setting up its own fire department as soon as possible, without waiting for the end of the contracts to compete for scarce firefighting resources with Long Lake, following decades in which the parties have worked cooperatively under a joint fire protection arrangement, poses a risk of irreparable harm to Long Lake."

Page 26: "While it may be true that volunteer firefighters are allowed to volunteer for more than one department, Orono offered no hint as to the call schedule it anticipates requiring of its firefighters, and how that may impact the ability or willingness of those firefighters to continue to be on call for Long Lake, or how those firefighters may prioritize their obligations to one department over the other. If Long Lake is unable to maintain a full roster of firefighters, due to Orono's hiring of those firefighters for its own department, Long Lake's ability to continue to perform its contractual obligations to all of the contracting cities throughout the remainder of the contractual term will likely be impaired."

I don't think the Order could be more clear. However, my client is speaking with our Fire Chief to see if there is any capacity in this regard and I will report back. However, those discussions may be best had in the context of the forthcoming mediation.

On a different note, I was under the impression that you and I were going to attempt to work together to resolve the outstanding issues. Instead, I see that Mayor Walsh has posted a memo of yours to social media relating to the litigation and legal strategy. The memo was not labelled as attorney/client, privileged or work product. If your purpose was to provide something to Mayor Walsh to communicate legal theories to his constituents, I am disappointed to say the least. If that is not the case, it clearly was the intent of Mayor Walsh to do so. Either way, please note that the posting of this strategy memo was an express waiver of privilege, and we consider the waiver to be complete on all related topics and communications. We will be seeking in discovery all communications between you, the Mayor and the Council relating to litigation strategy in this manner. It is not appropriate to use purportedly privileged communications as a sword to communicate with third parties, while at the same time attempting to shield other, related communications under the guise of privilege.

-Chris

Christopher H. Yetka
Shareholder

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